

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 220
96TH GENERAL ASSEMBLY
2011

1039L.02T

AN ACT

To repeal sections 429.015 and 516.098, RSMo, and to enact in lieu thereof three new sections relating to liens for architects, professional engineers, land surveyors, and landscape architects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 429.015 and 516.098, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 429.015, 516.098,
3 and 537.033, to read as follows:

429.015. 1. Every registered architect or corporation registered to practice
2 architecture, every registered professional engineer or corporation registered to
3 practice professional engineering, every registered landscape architect or
4 corporation registered to practice landscape architecture, and every registered
5 land surveyor or corporation registered to practice land surveying, who does any
6 landscape architectural, architectural, engineering or land surveying work upon
7 or performs any landscape architectural, architectural, engineering or land
8 surveying service directly connected with the erection or repair of any building
9 or other improvement upon land under or by virtue of any contract with the
10 owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or
11 subcontractor, or without a contract if ordered by a city, town, village or county
12 having a charter form of government to abate the conditions that caused a
13 structure on that property to be deemed a dangerous building under local
14 ordinances pursuant to section 67.410, upon complying with the provisions of this
15 chapter, shall have for such person's landscape architectural, architectural,
16 engineering or land surveying work or service so done or performed, a lien upon
17 the building or other improvements and upon the land belonging to the owner or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 lessee on which the building or improvements are situated, to the extent of [one
19 acre] **three acres**. If the building or other improvement is upon any lot of land
20 in any town, city or village, then the lien shall be upon such building or other
21 improvements, and the lot or land upon which the building or other
22 improvements are situated, to secure the payment for the landscape architectural,
23 architectural, engineering or land surveying work or service so done or
24 performed. For purposes of this section, a corporation engaged in the practice of
25 architecture, engineering, landscape architecture, or land surveying, shall be
26 deemed to be registered if the corporation itself is registered under the laws of
27 this state to practice architecture, engineering or land surveying.

28 2. Every mechanic or other person who shall do or perform any work or
29 labor upon or furnish any material or machinery for the digging of a well to
30 obtain water under or by virtue of any contract with the owner or lessee thereof,
31 or such owner's or lessee's agent, trustee, contractor or subcontractor, upon
32 complying with the provisions of sections 429.010 to 429.340 shall have for such
33 person's work or labor done, or materials or machinery furnished, a lien upon the
34 land belonging to such owner or lessee on which the same are situated, to the
35 extent of [one acre] **three acres**, to secure the payment of such work or labor
36 done, or materials or machinery furnished as aforesaid.

37 3. Every mechanic or other person who shall do or perform any work or
38 labor upon, or furnish any material, fixtures, engine, boiler or machinery, for the
39 purpose of demolishing or razing a building or structure under or by virtue of any
40 contract with the owner or lessee thereof, or such owner's or lessee's agent,
41 trustee, contractor or subcontractor, or without a contract if ordered by a city,
42 town, village or county having a charter form of government to abate the
43 conditions that caused a structure on that property to be deemed a dangerous
44 building under local ordinances pursuant to section 67.410, upon complying with
45 the provisions of sections 429.010 to 429.340, shall have for such person's work
46 or labor done, or materials, fixtures, engine, boiler or machinery furnished, a lien
47 upon the land belonging to such owner or lessee on which the same are situated,
48 to the extent of [one acre] **three acres**. If the building or buildings to be
49 demolished or razed are upon any lot of land in any town, city or village, then the
50 lien shall be upon the lot or lots or land upon which the building or other
51 improvements are situated, to secure the payment for the labor and materials
52 performed.

53 4. The provisions of sections 429.030 to 429.060 and sections 429.080 to
54 429.430 applicable to liens of mechanics and other persons shall apply to and
55 govern the procedure with respect to the liens provided for in subsections 1, 2 and

56 3 of this section.

57 5. Any design professional or corporation authorized to have lien rights
58 under subsection 1 of this section shall have a lien upon the building or other
59 improvement and upon the land, whether or not actual construction of the
60 planned work or improvement has commenced if:

61 (1) The owner or lessee thereof, or such owner's or lessee's agent or
62 trustee, contracted for such professional services directly with the design
63 professional or corporation asserting the lien; and

64 (2) The owner or lessee is the owner or lessee of such real property either
65 at the time the contract is made or at the time the lien is filed.

66 6. Priority between a design professional or corporation lien claimant and
67 any other mechanic's lien claimant shall be determined pursuant to the
68 provisions of section 429.260 on a pro rata basis.

69 7. In any civil action, the owner or lessee may assert defenses which
70 include that the actual construction of the planned work or improvement has not
71 been performed in compliance with the professional services contract, is
72 impracticable or is economically infeasible.

73 8. The agreement is in writing.

516.098. [1.] Except where fraud is involved, no action to recover
2 damages for an error or omission in the survey of land, nor any action for
3 contribution or indemnity for damages sustained on account of an error or
4 omission may be brought against any person performing the survey more than
5 [five years after the discovery of the error or omission] **ten years from the**
6 **completion of the survey.**

7 [2. This section shall become effective January 1, 1990.]

537.033. 1. As used in this section, unless the context clearly
2 **indicates otherwise, the following words shall mean:**

3 (1) "Design professional", an architect, landscape architect,
4 professional land surveyor or professional engineer, licensed under the
5 provisions of chapter 327 or any corporation authorized to practice
6 architecture, landscape architecture, land surveying, or engineering
7 under section 327.401 while acting within his or her scope of practice;

8 (2) "Peer review process", a process through which design
9 professionals evaluate, maintain, or monitor the quality and utilization
10 of architectural, landscape architectural, land surveying or engineering
11 services, prepare internal lessons-learned, or exercise any combination
12 of such responsibilities.

13 2. A peer review process may be performed by the following,

14 each of whom shall be deemed a peer reviewer:

15 (1) An individual design professional or committee of design
16 professionals appointed by a state, county or local society of design
17 professionals;

18 (2) An individual design professional or committee of design
19 professionals appointed by the partners, shareholders, or employed
20 design professionals of a partnership or of a corporation authorized
21 under section 327.401;

22 (3) Any individual design professional or committee of design
23 professionals appointed by the partners, board of directors, chief
24 executive officer, or the quality control director of a partnership or a
25 corporation authorized under section 327.401 to practice architecture,
26 landscape architecture, land surveying, or engineering, or by the owner
27 of a sole proprietorship engaged in one or more of such professions.

28 3. Each peer reviewer, member of a peer review committee, and
29 each person, corporate director, partner, quality control director, or
30 other design professional who testifies before, or provides information
31 to, acts upon the recommendation of, or otherwise participates in the
32 operation of, such a process shall be immune from civil liability for
33 such acts so long as the acts are performed in good faith, without
34 malice, and are reasonably related to the scope of inquiry of the peer
35 review process.

36 4. Except as otherwise provided in this section, the interviews,
37 memoranda, proceedings, findings, deliberations, reports, and minutes
38 of the peer review process, or the existence of the same, concerning the
39 professional services provided to a client or member of the public are
40 privileged and shall not be subject to discovery, subpoena, or other
41 means of legal compulsion for their release to any person or entity or
42 be admissible into evidence in any judicial or administrative action for
43 failure to provide appropriate architectural, landscape architectural,
44 land surveying, or engineering services. Except as otherwise provided
45 in this section, no person who was in attendance at or participated in
46 any peer review process or proceedings shall be permitted or required
47 to disclose any information acquired in connection with or in the
48 course of such proceeding, or to disclose any opinion, recommendation,
49 or evaluation of the peer reviewer or any member of a peer review
50 committee; provided, however, that information otherwise discoverable
51 or admissible from original sources shall not be construed as immune

52 from discovery or use in any proceeding merely because it was
53 presented during proceedings before a peer reviewer, nor shall a
54 member, employee, or agent involved in any such process, or other
55 person appearing before a peer reviewer be prevented from testifying
56 as to matters within his or her personal knowledge and in accordance
57 with the other provisions of this section; except that, such witness shall
58 not be questioned about testimony or other proceedings before any
59 peer review process or peer reviewer or about opinions formed as a
60 result of such process. The disclosure of any interview, memoranda,
61 proceedings, findings, deliberations, reports, or minutes to any person
62 or entity, including but not limited to governmental agencies,
63 professional accrediting agencies, or other design professionals,
64 whether proper or improper, shall not waive or have any effect upon
65 its confidentiality, nondiscoverability, or nonadmissibility.

66 5. Nothing in this section shall limit authority otherwise
67 provided by law of the Missouri board for architects, professional
68 engineers, professional land surveyors and landscape architects to
69 obtain information by subpoena or other authorized process from a
70 peer reviewer or to require disclosure of otherwise confidential
71 information developed outside of the peer review process which relate
72 to matters and investigations within the jurisdiction of such licensing
73 board.

✓